

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TAGNETICS, INC.,)	CASE NO. 3:19-cv-363
)	
Appellant,)	JUDGE THOMAS M. ROSE
)	
v.)	APPELLANT’S MOTION TO EXTEND
)	BRIEFING SCHEDULE
KENNETH KAYSER, <i>et al.</i> ,)	
)	
Appellees.)	

Appellant Tagnetics, Inc. (“Tagnetics”), files this Motion to Extend Briefing Schedule and asks that the Court grant a thirty (30) day extension of time to submit its brief in support of the appeal noted in this matter.

On October 30, 2019, Tagnetics noted an appeal to this Court, following the decision by the United States Bankruptcy Court to enforce a settlement agreement between Tagnetics and three (3) creditors (“Appellees”). On or about January 14, 2020, the Court set the briefing schedule in this matter, requiring that Appellant’s brief be submitted by January 28, 2020 (only two weeks after the briefing schedule came out), Appellees’ brief be submitted on February 11, 2020, and any reply brief be due by February 25, 2020. It does not appear that an oral argument hearing date has been set by the Court.

Following receipt of the Court’s briefing schedule, it was discovered that the transcript of the October 18, 2019 hearing (which gives rise to the instant appeal) was not obtained, and it was determined that the transcript could not be acquired in sufficient time to fully brief this matter. Contemporaneous with the granting of this Motion, Appellants intend to expedite production of the transcript, at significant cost, to ensure delivery in sufficient time to properly prepare the brief

in support of this appeal. Upon information and belief, the transcript can be acquired as quickly as seven (7) days following receipt of a special payment for such expedited delivery.

Appellants respectfully request that the briefing schedule as delineated in the January 14, 2020 docket entries be modified and extended by thirty (30) days. No party will be prejudiced by the granting of this Motion, as Appellants and Appellees will benefit from the additional briefing schedule, and such extension will further the interest of justice in the captioned matter. *See Ungar v. Sarafite*, 376 U.S. 575 (1964); *Noble v. Black*, 539 F.2d 586 (6th Cir. 1976). Further, Appellant's request does not seek this extension for tactical advantage. Rather, Appellants respectfully suggest that Appellant will be prejudiced should it not be able to properly cite to the operative hearing in this matter.

WHEREFORE, Appellant Tagnetics, Inc., respectfully requests the Court issue an Order granting a thirty (30) day extension to the current briefing schedule, such that Appellant's brief will be due on or before February 27, 2020, Appellee's brief on or before March 12, 2020, and any reply brief due on or before March 26, 2020.

Dated: January 23, 2020

Respectfully submitted,

/s/ Nicholas R. Oleski

Robert R. Kracht (0025574)
Nicholas R. Oleski (0095808)
McCARTHY, LEBIT, CRYSTAL
& LIFFMAN CO., LPA
101 West Prospect Avenue
1800 Midland Building
Cleveland, Ohio 44115
Telephone: (216) 696-1422
Facsimile: (216) 696-1210
Email: rrk@mccarthylebit.com
nro@mccarthylebit.com

Stephen B. Stern* (*pro hac vice* application forthcoming)

KAGAN STERN MARINELLO & BEARD, LLC

238 West Street

Annapolis, Maryland 21401

Telephone: (410) 216-7900

Facsimile: (410) 705-0836

Email: stern@kaganstern.com

Attorneys for Appellant Tagentics, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2020, a copy of the foregoing *Motion to Extend Briefing Schedule* was served (i) **electronically** on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the court and (ii) electronically by email on counsel for Tagentics, Inc., Stephen Stern, Esq. (Stern@kaganstern.com), Douglas Draper, Esq. (ddraper@hellerdraper.com) and Leslie Collins, Esq. (lcollins@hellerdraper.com), and (iii) by **ordinary U.S. Mail** on January 23, 2020 addressed to:

Kenneth W Kayser
PO Box 115
Catawba, VA 24070

Ronald E. Earley
6429 Winding Tree Drive
New Carlisle, OH 45344

Jonathan Hager
842 Paint Bank Road
Salem, VA 24153

Jeremy Shane Flannery
Office of the United States Trustee
170 North High Street
Suite 200
Columbus, Ohio 43215

/s/ Nicholas R. Oleski

Nicholas R. Oleski (0095808)

